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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

IN THE MATTER OF

)
) Docket No. CWA-07-2003-0289
)

Shoal Creek Valley Development
Company, L.L.C
The Preserve- Shoal Creek Valley
Kansas City, Missouri

)
) CONSENT AGREEMENT AND
) FINAL ORDER
)

Respondent

)
)
) Proceedings under Section 309(g) of the
) Clean Water Act, 33 U.S.C. § 1319(g)
)
)

I. PRELIMINARY STATEMENT

These proceedings were initiated pursuant to Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (hereafter "CWA"), 33 U.S.C. § 1319(g). On September 16, 2003, the United States Environmental Protection Agency (EPA or Complainant), Region VII issued a Complaint, Notice of Proposed Penalty and Notice of Opportunity for Hearing (Complaint) to Shoal Creek Valley Development Company, L.L.C (Respondent). The Complaint alleged violations of the CWA by Respondent at its The Preserve - Shoal Creek Valley construction site in Kansas City, Missouri.

The Complainant and Respondent subsequently entered into negotiations in an attempt to settle the allegations contained in the Complaint. This Consent Agreement and Final Order (CAFO) is the result of such negotiations and resolves all issues relating to the administrative claims arising from the allegations in the Complaint.

II. CONSENT AGREEMENT

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Consent Agreement and the Final Order set forth below.

2. Respondent neither admits nor denies the factual allegations set forth in the Complaint.

3. Respondent agrees not to contest the terms and conditions set forth in this CAFO in this or subsequent proceedings to enforce the terms of this CAFO, and agrees not to appeal the Final Order set forth below.

4. Respondent explicitly waives its right to a hearing on any issue of fact or law set forth in the Complaint.

5. EPA has considered the appropriateness of the penalty pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and has determined that the appropriate penalty for settlement of the violations set forth in the Complaint is Thirteen Thousand Dollars (\$13,000). Payment of this penalty shall satisfy all claims arising out of the facts alleged in the Complaint.

6. Respondent consents to the issuance of the Order hereinafter recited and consents to the payment of the civil penalty as set forth in the Final Order.

7. Respondent's failure to pay the civil penalty assessed herein in accordance with the provisions of this Order may result in the commencement of a civil action in Federal District Court to collect said penalty, together with costs and interest thereon at the applicable statutory rate.

8. Respondent and EPA each agree to bear their own costs and attorneys' fees.

9. Each signatory of this CAFO certifies he or she is fully authorized to enter into the terms of the CAFO.

10. Respondent certifies by the signing of this CAFO that it is in compliance with the requirements of Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

III. FINAL ORDER

Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty of Thirteen Thousand Dollars (\$13,000) within thirty (30) days of receipt of a copy of this fully executed CAFO. Payment shall be by cashier's or certified check, made payable to "Treasurer, United States of America," and referencing EPA Docket No. CWA-07-2003-0289, and remitted to:

EPA - Region VII
Attn.: Regional Hearing Clerk
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251

A copy of the check shall be mailed to:

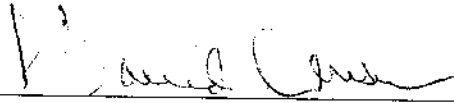
J. Daniel Breedlove
Assistant Regional Counsel
U.S. Environmental Protection Agency
901 North 5th Street
Kansas City, Kansas 66101

2. Compliance with the terms of this CAFO satisfies all claims arising out of the facts alleged in the Complaint. This CAFO shall terminate after satisfaction by Respondent of the requirements of this Final Order.

3. This executed CAFO shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas 66101.

In the Matter of:
Shoal Creek Valley Development Company
Consent agreement/Final Order

For the Respondent:



Shoal Creek Valley Development Company, LLC

By: Zions Securities Corporation, Manager

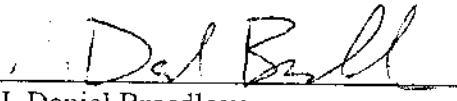
P. David Jensen, Senior Vice President and Chief Operating Officer

1-30-2024
Date

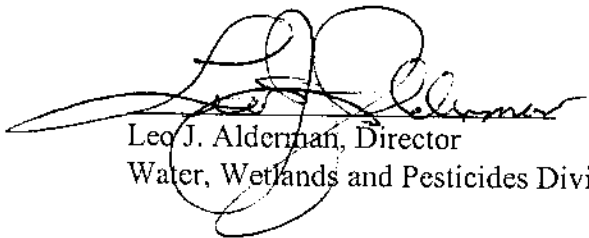
In the Matter of:
Shoal Creek Valley Development Company
Consent Agreement/Final Order

For the Complainant:

The United States Environmental Protection Agency

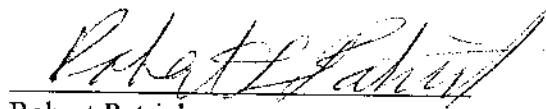

J. Daniel Breedlove
Assistant Regional Counsel

1/16/2004
Date


Leo J. Alderman, Director
Water, Wetlands and Pesticides Division

1/16/04
Date

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional
Judicial Officer.


Robert Patrick
Regional Judicial Officer

January 26, 2004
Date

IN THE MATTER OF Shoal Creek Valley Development Company, LLC, Respondent
Docket No. CWA-07-2003-0289

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

J. Daniel Breedlove
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101


Copy by Certified Mail Return Receipt to:

Terry J. Satterlee
Lathrop & Gage LC
2345 Grand Blvd, Suite 2800
Kansas City, Missouri 64108

and

Jessica E. Merrigan
Lathrop & Gage LC
2345 Grand Blvd, Suite 2800
Kansas City, Missouri 64108

Dated: 7/27/04


Kathy Robinson
Regional Hearing Clerk